

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

REBECCA A. CORTESY,

Plaintiff,

vs.

THE HARTFORD,

Defendant.

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No. 1:18-CV-00174

**COMPLAINT UNDER ERISA FOR RECOVERY OF
DISABILITY INSURANCE BENEFITS**

COMES NOW, Plaintiff, Rebecca A. Cortesy, by her attorney, Jeffrey B. diamond, and for cause of action against the Defendant, states:

1. Plaintiff is a resident of Los Alamos County, New Mexico and the Defendant engages in business in the State of New Mexico. This action is brought pursuant to 29 USC § 1132, § 502(a) of the Employee Retirement Income Security Act of 1974. Jurisdiction and venue are proper in this Court pursuant to Subsection (e)(1) of 29 USC § 1132.

2. Plaintiff was employed by Los Alamos National Laboratory, for over twenty nine years until becoming disabled on or about June 17, 2015 as the direct result of a combination of severe mental and physical illnesses consisting of major depressive disorder, degenerative joint disease, fibromyalgia, cervical radiculopathy, lumbar radiculopathy, and disabling physical effects resulting therefrom. Plaintiff is crippled from her multiple impairments.

3. Defendant, The Hartford, issued a policy of short-term and long-term disability insurance benefits for the benefit of the Plaintiff, who made claim therefore as insured ID 9003763073 under claim number GLT395155, and provided sufficient medical evidence, health history, and other relevant, necessary, and material evidence in support of the said claim,

including releases for the Defendant to obtain information from medical and other sources, so as to qualify for and be entitled to the receipt of benefits under such disability income policy.

4. Plaintiff was entitled under the plan to a disability waiver of premium for life and health insurance coverage which the Defendant has wrongfully denied.

5. Defendant established, jointly, the group benefits plan as an employee benefit plan established and qualified in accordance with the provisions of the Employee Retirement Income Security Act, 29 USC § 1001 et seq.

6. That at all times material hereto, the Plaintiff obtained and continued her employment in reliance upon the provision to the Plaintiff of disability income insurance benefits in the event she became disabled.

7. Beginning on or about June 17, 2015 as hereinabove set forth, the Plaintiff became disabled and unable to continue working for Los Alamos National Laboratory., or any other employer, in any type of employment, and thus became eligible and entitled to benefits under the disability income policy for both short and long term disability benefits.

8. Concurrently with applying to the Defendant for her disability income benefits, the Plaintiff also applied for, Social Security Disability Insurance Benefits and by reason of her disability.

9. The Plaintiff made due and proper application for disability benefits under the subject plan, and the Defendant has improperly, unlawfully, and in derogation of the subject disability plan, arbitrarily, capriciously, in bad faith, negligently, and otherwise wrongfully denied the Plaintiff the benefits to which she was entitled.

10. Plaintiff timely filed her claim for benefits, and the subject claim for benefits was improperly denied by the Defendant on February 14, 2018. Although the Plaintiff made timely appeals and requests for reconsideration of the denials prior to February 14, 2018, it would be

futile for the Plaintiff to engage in further administrative appeals and reconsideration, and thus, the Plaintiff has exhausted her administrative remedies.

11. That as a direct result of the arbitrary and capricious, wrongful, unlawful, improper, negligent and bad faith refusal of the Defendant to pay the Plaintiff disability benefits pursuant to the subject plan, the Plaintiff has suffered financial loss and hardship, and deprivation of contractual benefits under the disability plan, and the Court should award the Plaintiff a judgment against the Defendant for all disability insurance benefits to which the Plaintiff is entitled under the plan, together with interest thereon, reasonable attorney fees, costs of suit, and such other and further relief as the Court deems just and proper.

WHEREFORE, Plaintiff requests the Court award her damages against the Defendant for all disability income benefits due Plaintiff since June 17, 2015, together with accrued interest thereon, costs, reasonable attorney fees, and such other and further relief as the Court deems just in the premises.

Respectfully submitted,

JEFF DIAMOND LAW FIRM

/s/ Jeffrey B. Diamond (2/21/18)

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